

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1226 (Delegate C. Wilson, *et al.*)
 Economic Matters

Public Safety - Elevator Inspections - Testing

This bill requires a State inspector or third-party qualified elevator inspector who is required to witness a test performed on an elevator unit in accordance with State law, the Safety Code, or a regulation adopted by the Commissioner of Labor and Industry to be *physically present during the entire test* to witness that the test has been correctly performed and to verify the proper recording of the test result. The bill also requires that such a test performed on an elevator unit be performed by a licensed elevator mechanic.

Fiscal Summary

State Effect: Special fund expenditures for the Department of Labor, Licensing, and Regulation (DLLR) increase by \$1.3 million in FY 2018 for additional inspectors and administrative staff, as discussed below. Future year expenditures reflect annualization and elimination of one-time costs. Special fund revenues increase from the assessment on workers’ compensation premiums (as authorized under current law) to fund the additional expenditures; State expenditures (all funds) increase minimally due to a larger assessment charged by the Workers’ Compensation Commission (WCC) to all employers, including the State.

(\$ in millions)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
SF Revenue	-	-	-	-	-
SF Expenditure	\$1.3	\$1.6	\$1.6	\$1.7	\$1.8
GF/SF/FF Exp.	-	-	-	-	-
Net Effect	(\$1.3)	(\$1.6)	(\$1.6)	(\$1.7)	(\$1.8)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local governments are affected to the extent that annual elevator inspections are delayed or cost more under the bill. Local government expenditures increase minimally due to a larger assessment charged by WCC to all employers, including local governments. Revenues are not affected.

Small Business Effect: Meaningful, as discussed below.

Analysis

Current Law: Elevators in the State must be inspected, tested, and maintained in a safe operating condition in accordance with the State Safety Code and regulations adopted by the commissioner. “Safety Code” means the American National Standard/American Society of Mechanical Engineers Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, known as ANSI A17.1-1971, and all subsequent amendments and revisions to it, as adopted by the commissioner.

Unless otherwise specified by statute, an elevator may not operate in a building, structure, or place of employment in the State unless it has been certified by the commissioner. Inspections are required for new elevators and after any modifications to existing elevators. Operational elevators must undergo periodic annual inspections and more comprehensive five-year inspections.

A State inspector must make the following inspections, among others:

- final acceptance inspection of all new elevator units prior to issuance of first certificate (*i.e.*, final certification);
- a comprehensive five-year inspection as defined by regulation;
- generally, inspections of elevator units owned by the State or a local government; and
- quality control monitoring of inspections conducted by third-party qualified elevator inspectors.

Pursuant to Chapter 145 of 2009, annual inspections for privately owned elevators are conducted by third-party inspectors. Prior to the Act, annual inspections were conducted by State inspectors. Annual inspections must ensure that the elevator unit complies with the State Safety Code and other regulations adopted by the commissioner.

DLLR Regulations and the Elevator Safety Code

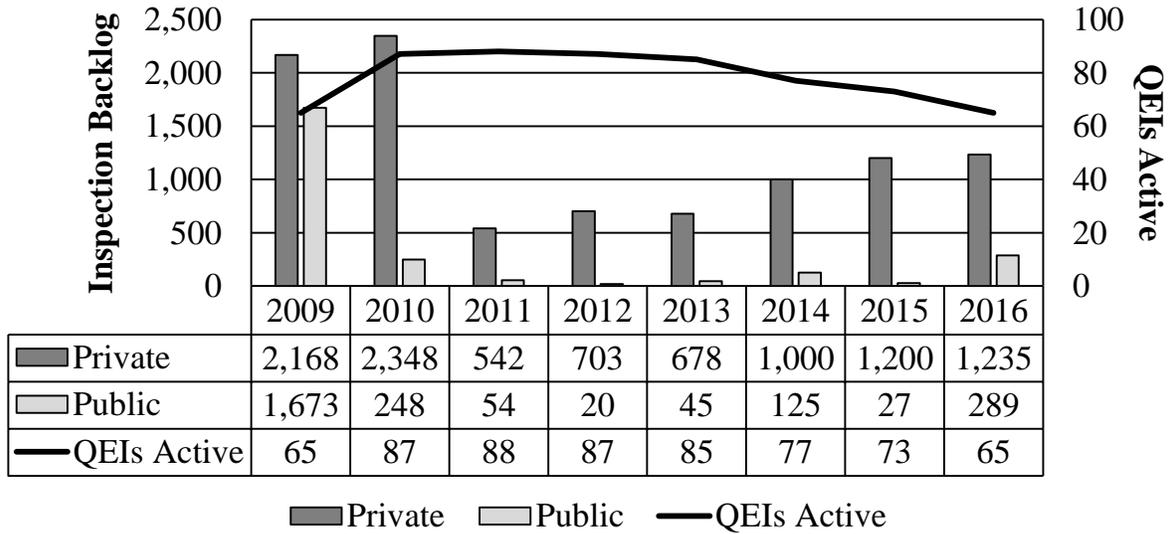
DLLR regulations specify that “witness,” as it appears in the Safety Code, means to observe or to verify that testing has been performed by a qualified individual in accordance with the Safety Code. The Safety Code makes several references to an inspector “witnessing” a test.

Background: A reliable estimate of the number of states that require state inspectors to be physically present for some or all elevator inspections is not available. DLLR conducted an outreach survey regarding the issue and received responses from 25 jurisdictions. Of those responses, 12 indicated annual witnessing of tests was either not required or optional. Among states that do require inspectors to be physically present, not all require it for each annual inspection, and many rely on third-party inspectors rather than state inspectors.

For annual inspections, DLLR advises that it has operated under its current method of on-site post-test reviews for approximately 20 years. Under this method, elevator inspectors arrive on-site after the safety tests have been conducted by appropriately licensed professionals (elevator mechanics), review the safety test reports, conduct a visual inspection of the elevator and associated equipment, and complete the inspection. For final certification, five-year inspections, and escalator inspections, the inspector is present during the testing that occurs.

As shown in **Exhibit 1**, prior to enactment of Chapter 145 of 2009, there was a significant backlog of elevator inspections in the State, as only State inspectors could perform all inspections. Following the enactment of Chapter 145, State inspectors no longer had to inspect privately owned elevators, allowing them to focus on eliminating the backlog among publicly owned elevators. As Exhibit 1 shows, the inspection backlogs for both public and private elevators have been reduced significantly from previous levels, although both backlogs are growing again.

Exhibit 1
Inspection Backlog – Public and Private Elevators
2009-2016



QEI: Third-party Qualified Elevator Inspector

Source: Department of Labor, Licensing, and Regulation

State Fiscal Effect: The bill requires State inspectors to be physically present during the annual safety tests performed by elevator mechanics. Despite the fact that no new inspections are necessary under the bill, DLLR advises that this requirement places a significant burden on the Elevator Safety Inspection Unit in the Division of Labor and Industry, as discussed below. The Department of Legislative Services (DLS) generally concurs with DLLR’s overall assessment of the scheduling issues that DLLR anticipates encountering under the bill but notes that there remains substantial disagreement on this point among various stakeholders.

Currently, State inspectors must be physically present during some tests/inspections: final certifications; five-year inspections; and escalator inspections. Combined, these three categories represent about 2,700 to 2,800 inspections per year and, according to DLLR, represent about 75% to 80% of the annual inspection hours of the Elevator Safety Inspection Unit. This is due not only to the higher level of complexity of the tests compared with the annual inspections, but also to the difficulty in scheduling the tests/inspections with all of the affected parties and the need for re-inspections when a repair cannot be performed during the initial inspection. Currently, since DLLR cannot

guarantee that inspectors can be available for more than a single test in one day, DLLR does not schedule more than one of these tests/inspections per inspector per day.

In contrast, most of the remaining 20% to 25% of the unit's annual inspection hours are dedicated to approximately 4,500 annual inspections, which take DLLR inspectors about two hours each to complete, on average. This is possible because DLLR does not need to schedule the inspections for specific times with any other entity. The inspector can arrive, check the inspection paperwork, verify that all repairs have been completed, and finish the inspection. This approach to annual inspections also increases the overall efficiency of the days on which an inspector has a scheduled inspection. If an inspector finishes a scheduled inspection early (or on schedule), then the inspector can identify and complete nearby annual inspections for the remainder of the day. Under the bill, which requires a mechanic and an inspector to both be present for the entirety of the annual tests/inspection, this efficiency is no longer an option in most cases (a mechanic would need to be in the area and available with little or no advance notice).

Under the bill, annual inspections must be scheduled and conducted in the same way as final certifications, five-year inspections, and escalator inspections. Based on its existing experience with these tests, DLLR does not anticipate being able to schedule/conduct more than one annual inspection per inspector per day, and the department anticipates a significant increase in effort and time spent coordinating schedules. DLLR cannot schedule more than one inspection per day because of the coordination issues and the potential for tests to run long due to unforeseen circumstances, and DLLR cannot reliably conduct more than one inspection per day if all inspections must now be scheduled in advance.

DLS notes that the in-person witnessing requirement may result in some efficiencies with respect to the inspection process, but these are often offset by other factors. For instance, having the mechanic and inspector both present for the test means that some repairs identified during the tests can be performed immediately and then verified and approved by the inspector, eliminating the need for a follow-up inspection. DLLR indicates, however, that oftentimes the opposite is true with its current five-year inspections. If a lengthy repair is needed (or if the mechanic must leave the site to retrieve a part) then the inspector must either wait while the mechanic completes the repair or both the mechanic and the inspector must return at another time to finish the repair/inspection. DLLR encounters similar issues even with buildings that have more than one elevator and would otherwise be expected to take less time; an issue with a mechanic or another party to the inspection can delay those inspections as well. For these reasons, DLLR does not schedule more than one such inspection per day, even though many can be (and are) completed in less time.

Using DLLR's estimate of the additional time required for annual inspections (six additional hours per elevator unit), an average of 220 inspection days per year per
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inspector, and approximately 4,500 State/local elevator units, DLLR requires an additional 15 State inspectors, 2 inspector supervisors, and 2 administrative staff to ensure that there is a minimal backlog of State inspections.

The Elevator Safety Inspection Unit is funded through an assessment on workers' compensation premiums. Therefore, special fund expenditures increase by \$1.3 million in fiscal 2018, which accounts for the bill's October 1, 2017 effective date. This estimate reflects the cost of hiring 15 inspectors, 2 supervisors, and 2 administrative staff for DLLR to ensure that a State inspector is physically present during annual State/local government elevator unit safety tests. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	19
Salaries and Fringe Benefits	\$1,031,071
Other Operating Expenses	<u>229,907</u>
Total FY 2018 DLLR Expenditures	\$1,260,978

Future year expenditures reflect full salaries with annual increases and employee turnover as well as ongoing operating expenses and the elimination of one-time costs.

Special fund revenues increase from the assessment on workers' compensation premiums as authorized under current law to fund the additional expenditures. State expenditures (all funds) increase minimally beginning in fiscal 2018 due to a larger assessment charged by WCC to all employers, including the State.

Small Business Effect: Small businesses that employ third-party qualified inspectors and individuals involved in the elevator safety tests are likely affected in the same way as the Elevator Safety Inspection Unit – many will encounter additional scheduling issues, and the time each inspection takes may increase. If this leads to fewer inspections, then the backlog of private elevator unit inspections (which has been growing since 2011) will increase. Small business costs increase minimally due to a larger assessment charged by WCC to all employers, including small businesses.

Additional Comments: Regardless of the additional staff necessary due to the bill, it is unlikely that DLLR can fill a substantial number of inspector positions. Private elevator inspector salaries are significantly higher than DLLR inspector salaries, which leads to continuous recruitment issues for the department.

Additional Information

Prior Introductions: SB 1165 of 2016, a similar bill, received a hearing from the Senate Finance Committee, but no further action was taken.

Cross File: SB 177 (Senator Manno, *et al.*) - Finance.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

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md/mcr

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